



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

[Handwritten signature]

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,381	06/01/2001	John N. Hait	2807.2.19	4512

35430 7590 06/07/2004

GARY L. EASTMAN
707 BROADWAY STREET, SUITE 1800
SAN DIEGO, CA 92101

EXAMINER

TRAN, DZUNG D

ART UNIT PAPER NUMBER

2633

DATE MAILED: 06/07/2004

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/872,381	Applicant(s) HAIT ET AL.	
Examiner Dzung D Tran	Art Unit 2633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 June 2001.
- 2a) This action is FINAL.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6,9-16,19 and 20 is/are rejected.
- 7) Claim(s) 7, 8, 17 & 18 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4, 7.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Specification

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 5, 6, 9-13, 15, 16, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Kuboki U.S. patent no. 6,498,871.

Regarding claim 1, Kuboki discloses, in figure 4, an optical apparatus comprising:

a photonic source 1 configured to receive a modulated photonic signal λ_{ref1} and

to

provide a photonic output signal λ_1 corresponding thereto;

a seed source 23 configured to provide a photonic seed signal 21 having a selected wavelength λ_{ref1} within an operable bandwidth of the photonic source λ_1 (figure 8, col. 8, lines 1-20);

a combiner 22 operably connected to receive the photonic output signal 18;

the combiner 22, further configured to direct a portion of the energy of the photonic seed signal 21 into the photonic source 1; and

Art Unit: 2633

the combiner 22, further configured to output the energy of the photonic output signal 19, stabilized to the selected wavelength (col. 7, lines 56-61, col. 8, lines 38-42).

Regarding claims 2 and 11, Kuboki discloses photonic seed source 23 is configured to be intensity modulated and to provide the modulated signal 21 to the photonic source 1 (figure 2, col. 5, lines 22-24).

Regarding claims 3 and 13, Kuboki further discloses transmitter (2 of figure 6) is a switched source of laser light.

Regarding claims 5, 6, 15 and 16, Kuboki further discloses light signal sent out from within each individual optical transmitter (same as photonic source) is intensity modulating optical signal (col. 2, lines 36-39). Therefore, it is inherent that an intensity modulator must be connected to the optical transmitter (same as photonic source) for providing the modulated signal.

Regarding claims 9, 10, 19 and 20, Kuboki further discloses a combiner is a circulator 22 which can be a frequency splitter (see specification page 37, lines 10-14).

Regarding claim 12, Kuboki further discloses transmitter is a laser (col. 9, lines 7-14).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 2633

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuboki U.S. patent no. 6,498,871 in view of Byren et al U.S. patent no. 5,974,060.

As per claim above, Kuboki discloses all the limitations except that the photonic seed source provides a photonic seed signal having an energy below a threshold level corresponding to the photonic source. Byren discloses the seed laser 11 (same as photonic seed source) provides a photonic seed signal having an energy below a threshold level corresponding to laser medium 15 (same as photonic source) (col. 8, line 35-38). At the time of the invention was made, it would have been obvious to a person of ordinary skill in the art to incorporate the teaching of Byren in the system of Kuboki. One of ordinary skill in the art would have been motivated to do this since the use of reference level for controlling the source laser is well known in the art.

5. Claims 7, 8, 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Myers et al. U.S. publication no. 2002/0131527. Modulation synthesis method for photonic wavelength shifting

Art Unit: 2633

b. Mizrahi et al. U.S. patent no. 6,111,681. WDM optical communication system with wavelength stability optical selectors

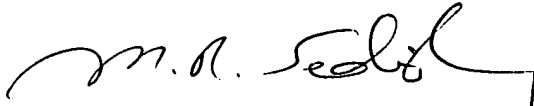
c. Noda et al. U.S. patent no. 5,900,959. Optical transmitter, optical communication system and optical communication method

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dzung Tran whose telephone number is (703) 305-0932.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Jason Chan, can be reached on (703) 305-4729.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


M.R. SEDIGHIAN
Primary Examiner
Art Unit: 2633